

December 12, 2014

Via FedEx

Bobbie L. Howard, CPA
921 Church Street – Rear Entrance
Houma, LA 70360

Re: Decision of the Debarring Official

Dear Mr. Howard:

Pursuant to 45 C.F.R. Part 1641, on September 16, 2014, the Legal Services Corporation (LSC) Office of Inspector General (OIG) issued to you a Notice of Proposed Debarment. That Notice set forth three grounds for debarment and advised you of your rights to contest the proposed debarment through the process prescribed by LSC's regulations. Having received and considered your response to the proposed debarment, the OIG has now completed its review of this matter. For the reasons set forth below, I, in my capacity as the debarring official, have determined that your audit of Acadiana Legal Services Corporation (Acadiana) for the period ending December 31, 2013, "failed significantly to comply with government auditing standards ..., generally accepted auditing standards [and] OIG audit guidance" 45 C.F.R. § 1641.7. Accordingly, you are hereby debarred from providing audit services to LSC grantees for a period of three years beginning December 10, 2014. The reasons for my decision are discussed more fully below.

1. **Background**

A. Conclusions of the McBride Report

On July 23, 2014, an OIG contractor, McBride, Lock & Associates (McBride), submitted to the OIG a Quality Control Review of audit work performed by you and your firm for Acadiana. *See* McBride Quality Control Review Report ("McBride Report"), attached as Exhibit 1. This QCR was undertaken as an ordinary part of the OIG's program for overseeing Independent Public Accountants who perform annual audits of LSC's grantees. The QCR focused on your audit work covering the fiscal year ending December 31, 2013 (FY 2013). The results of the QCR are set forth below.

1. Insufficient Evidence For Conclusions Reached With Respect To Financial Audit

The McBride Report concluded there was insufficient evidential matter to support the conclusions expressed in your report on Acadiana's financial statements for the year ending December 31, 2013.

As such, McBride concluded the audit in question violated Generally Accepted Government Auditing Standards (GAGAS) 2.08(c), 4.01 and 4.03, which incorporate by reference the American Institute of Certified Public Accountants' (AICPA) Statements on Auditing Standards (SAS).

Among the requirements contained in the SAS No. 95, AU Section 150.02 requires auditors to obtain "sufficient appropriate audit evidence by performing audit procedures to afford a reasonable basis for an opinion regarding the financial statements under audit ...";

More specifically, SAS No. 103, AU Section 339.10 requires auditors to obtain and prepare "audit documentation the enables an experienced auditor, having no previous connection to the audit, to understand:

- (a) The nature, timing, and extent of auditing procedures performed . . . ;
- (b) The results of the audit procedures performed and the audit evidence obtained;
- (c) The conclusions reached on significant matters; and
- (d) That the accounting records agree or reconcile with the audited financial statements or other audited information."

McBride concluded the "audit evidential matter necessary to support the auditor's opinion on the financial statements is not adequate." McBride QCR, at 2. "Although the audit was properly planned the evidential matter to support many of the amounts presented on the financial statements were lacking." Id.

2. Insufficient Evidence For Conclusions Reached With Respect To Evaluation of Recipient's Compliance With LSC Regulations

The McBride Report concluded there was insufficient evidential matter to support the conclusions expressed in your audit report regarding Acadiana's compliance with the regulations contained in 45 C.F.R. §§ 1608, 1609, 1610, 1611, 1612, 1613, 1615, 1617, 1620, 1626, 1627, 1630, 1632, 1633, 1635, 1636, 1637, 1638, 1639, 1643, 1644, as well as the Other Statutory Prohibitions and Property Management Requirements set forth in the LSC OIG's Compliance Supplement.

As noted in the OIG's audit guidance contained in the Compliance Supplement for Audits of LSC Recipients, "[a]ssessing compliance with these particular regulations is part of the annual audit of LSC recipients conducted under the general guidance of Office of Management and Budget (OMB) Circular A-133 for audits of non-profit institutions." Compliance Supplement, at

1. Among other things, the Compliance Supplement contains detailed suggested audit procedures that IPAs may follow in assessing a recipient's compliance with these regulations.

Although these suggested procedures are not the exclusive means by which an IPA can evaluate a recipient's policies and procedures for compliance with LSC regulations, "[i]f a suggested audit procedure is not performed, the IPA is to document in the workpapers the alternative procedures used to accomplish the objective. These alternative procedures will be examined during OIG quality reviews of workpapers." Compliance Supplement, at 2.

According to the McBride Report, "[i]t was not evident that the IPA evaluated the policies and procedures maintained by the recipient for compliance with applicable regulations." McBride Report at 2. "The grantee policy is not included in the audit file and there is no indication through other documentation that it was reviewed or therefore found to be appropriate. It was also not noted as to how such policies were communicated to the attorneys or other staff of the grantee." Id.

With respect to your review of the recipient's private attorney involvement (PAI) plan, McBride stated that although you obtained the recipient's PAI plan and detailed information supporting the recipient's achievement of its PAI requirement, there was no indication that any "detail that was received by the organization was reviewed for compliance with LSC requirements or that the detail was tested to ensure that it was supported." Id., at 3.

Moreover, according to the McBride Report, the work papers associated with your audit of Acadiana did not document any interviews with recipient staff. As outlined in the QCR, the Compliance Supplement's suggested audit procedures for testing compliance with 45 C.F.R. Parts 1608 through 1614, 1617, 1620, 1626, 1632, 1633, 1636 through 1639, and 1643, include interviews with recipient staff to assess their knowledge of the relevant regulatory requirements.

Likewise, according to the McBride Report, there is no indication you reviewed the recipient's policies and procedures with respect to the mandatory recordkeeping requirements set forth in the Compliance Supplement's provisions concerning 45 C.F.R. Parts 1609, 1612, 1617, 1620, 1626, 1633, and 1637.

The McBride Report further states that there is no indication you followed the review steps outlined in the Compliance Supplement to ensure the recipient made timely and accurate annual and semi-annual report submissions as required by 45 C.F.R. Parts 1612 and 1620; or that you followed the procedures outlined in the Compliance Supplement to ensure the recipient complied with the report submission, case disclosure, and other requirements of Part 1644.

Moreover, the McBride Report states that although you performed cash disbursement testing of 40 items, it is unclear whether your testing addressed certain areas for which the Compliance Supplement includes cash disbursement testing as a means to test recipient compliance, including:

- Part 1608-- Prohibited Political Activity
- Part 1610 – Use of Funds From Sources Other Than the Corporation
- Part 1612 – Restriction on Lobbying and Certain Other Activities
- Part 1627 – Subgrants and Dues

- Part 1630 – Cost Standards

In addition, the McBride Report identified a number of areas relating to LSC audit requirements as to which it does not appear that you undertook adequate review, analysis and testing, in particular:

- Part 1608 – Prohibited political activity
- Part 1611 – Eligibility
- Part 1612 – Restrictions on lobbying and other activities
- Part 1617 – Class actions
- Part 1620 – Priorities in the use of resources
- Part 1628 – Recipient fund balances
- Part 1630 – Cost standards and procedures
- Part 1633 – Restriction on representation in certain eviction proceedings
- Part 1635 – Timekeeping requirement

(Please see pp. 4-5 of McBride's QCR for a more detailed explanation of the deficiencies McBride identified with respect to your review, analysis, and testing of Parts 1608, 1611, 1612, 1617, 1620, 1628, 1630, 1633, and 1635.)

3. Recipient's Allocation of Expenses; Schedule of Federal Awards; and Property Management System

With respect to the recipient's allocation of expenses, McBride states that there is no indication you tested the allocation system or verified that the system results in the allocation of only allowable costs to LSC.

In addition, McBride notes that the Schedule of Federal Awards (SEFA) you presented in your report mentions only the recipient's LSC basic field grant, although it is apparent that the recipient also received a Technology Initiative Grant (TIG) from LSC, and it is likely that the recipient received other federal awards that are not accounted for in the SEFA. McBride also states that it is not apparent that you examined the SEFA or other supporting documents to determine whether grants or awards should be accounted for in the OMB Circular Audit.

Moreover, although the SEFA accounts for only grants received (as part of the LSC basic field grant) and not for expenditures, your report did not contain a finding regarding the incomplete or improperly presented SEFA" or "consider the impact of additional Federal funds disclosures on the determination of major Federal programs for review in accordance with OMB Circular A-133." McBride, at 4.

Finally, McBride found that you failed to analyze the recipient's property management system to ensure that it met LSC requirements. McBride, at 5. Although you obtained a list of the recipient's property acquisitions, "other than cross-referencing that schedule to the fixed asset

lead schedule, there is no other evidence that these items were reviewed.” Id. In addition, there was “no indication that any dispositions occurred or were considered.” Id.

B. Your Response to the McBride Report

In your October 23, 2014, correspondence you set forth a 10-point response to the McBride Report’s findings. These points are addressed below, in the order in which you presented them.

1. Financial Statements

In your response, you state that you “agree[] with the findings” of the McBride Report, and that you have “made the necessary corrections” in your work papers “to include audit programs and other evidential supporting documentation to support the changes.” Response at 2. You then state that, “when taken as a whole, the auditor’s opinion of the financial statements supports most of the evidential matters.” Id.

With respect to the financial statements, you agree with McBride Report’s findings while also contending that your opinion of Acadiana’s financial statements “supports most of the evidential matters.” Id. You have provided nothing in your response, however, to throw into doubt the McBride Report’s finding that you failed to validate Acadiana’s listing of receivables. Nor have you provided information to indicate you performed an adequate review of Acadiana’s prepaid assets and other assets or of Acadiana’s accrued liabilities, or that you validated Acadiana’s significant accounting policies.

2. Policy Review and Communication

In your response, you state that you “agree[] with the findings” of the McBride Report, and state that you obtained copies of the relevant policies and procedures, but that they were “not included in [your] working papers.” Response at 2. You also state that the “policies and procedures have been reviewed by us in accordance with LSC requirements and ... were determined to have been adequate.” Id. You also maintain that you “did document how those policies are being communicated.” Id. You have provided nothing, however, to throw into doubt the McBride Report’s finding that you failed to show in your audit report that you had properly reviewed and evaluated Acadiana’s policies and procedures to ensure compliance with the relevant LSC regulations (specifically, 45 C.F.R. Parts 1608, 1609, 1610, 1611, 1612, 1613, 1615, 1617, 1620, 1626, 1627, 1630, 1632, 1633, 1635, 1636, 1637, 1638, 1639, 1643, and 1644).

3. Private Attorney Involvement (PAI)

In your response, you “agree[] with the finding of private attorney involvement plan” and that you “did not evaluate the adequacy nor test the [PAI plan] to ensure compliance with LSC’s requirements.” Response at 3. You have provided nothing to indicate you reviewed during the audit Acadiana’s PAI plan for compliance with LSC’s regulations or that you tested the plan’s details to ensure they were supported.

4. Interviews

According to the McBride Report, your audit workpapers did not document any interviews with recipient staff. Although you state that you met Auditing Standards by interviewing three of Acadiana's staff members, you agree with the McBride Report's finding that the interviews did not meet the standards set forth in the Compliance Supplement. Although the workpapers show that you interviewed Acadiana staff regarding fraud risks, you have presented nothing to indicate that you interviewed Acadiana staff regarding LSC requirements, as suggested by the Compliance Supplement.

5. Mandatory Recordkeeping Requirements

You agree with the McBride Report's finding that there was no indication you reviewed Acadiana's practices or submissions relating to the mandatory recordkeeping requirements associated with 45 C.F.R. Parts 1612, 1620, 1626, 1633, 1636, and 1637, as set forth in LSC's Compliance Supplement. Although you state that "[s]ome of the mandatory recording [sic] requirements were included in [your] working papers," you also acknowledge that they were "not properly documented in accordance with LSC's requirements." Response at 3. Accordingly, there is nothing in your response that calls into question the McBride Report's findings regarding mandatory recordkeeping requirements.

6. Semi-Annual and Annual Report Submissions

You agree with the McBride Report's finding that there was no indication you reviewed Acadiana's semi-annual and annual report submissions to ensure their accuracy, completeness, and timeliness. Moreover, you have provided nothing in your response to cast doubt on the accuracy of the McBride Report's finding in this respect.

7. Allocation of Expenses

You agree with the McBride Report's findings that you failed to provide a correct description of the cost allocation process in the audit workpapers, and that your workpapers contained no indication that you tested the allocation system or verified it was adequate to ensure LSC was allocated only allowable costs. Although you state that the cost allocation plan was tested during the testing of cash disbursements, your audit of Acadiana's financial statement was performed under an incorrect understanding of the cost allocation methodology, and the information you have provided in Exhibit IV of your response to the proposed debarment does not establish that you tested the allocation system identified in the McBride Report's finding.

8. Schedule of Expenditures of Federal Awards SEFA)

You agree with the McBride Report's finding that you failed to include all federal awards received by Acadiana on the SEFA (including, e.g., a Technology Improvement Grant from LSC and a grant from the Area Agency on Aging), but state that you will provide an amended 2013

SEFA and Data Collections form. To date, however, you have not provided these forms to the LSC OIG.

9. Cash Disbursement Test

The McBride Report found that your cash disbursement test was limited in scope, and it was unclear whether you specifically tested the items mentioned in LSC's Compliance Supplement to ensure appropriate grantee compliance, including Part 1608 (Prohibited Political Activity); Part 1610 (Use of Funds From Sources Other Than the Corporation); Part 1612 (Restrictions on Lobbying and Certain Other Activities); Part 1727 (Subgrants and Dues); and Part 1630 (Cost Standards). Although you state that future audit working papers will include proper documentation on these items, you have not provided anything in your response to indicate the McBride Report's finding is invalid.

10. Other Matters Relating to Specific LSC Requirements

With respect to the McBride Report's listing of other findings relating to LSC regulatory requirements, you agree with the McBride Report's findings except with respect to Part 1608 and 1620. As to Part 1608, you maintain that you made inquiries of recipient employees to determine whether they were of any type of fraud. Assuming this to be the case, such efforts would not be sufficient to address the compliance requirements relating to prohibited political activity.

Analysis and Decision

1. **Applicable Standards for Decision**

Pursuant to 45 C.F.R. § 1641.22(a), the LSC OIG may debar an Independent Public Accountant (IPA) from providing audit services to its grantees upon "a finding that the cause or causes for debarment or removal are established by a preponderance of the evidence in the administrative record."

As part of the debarment process, a subject IPA is entitled to make a written submission within 30 days of receipt of the Notice of Proposed Debarment and to participate in a meeting with the debarring official to discuss issues of fact or law relating to the proposed debarment. 16 C.F.R. § 1641.9(a)-(c).

LSC's debarment regulation further provides that "[i]f a debarring official finds that an IPA's submission raises a genuine issue of material fact, the IPA shall be afforded an opportunity to appear (with counsel, if desired), submit documentary evidence, present witnesses, and confront any witness the OIG presents." 16 C.F.R. § 1641.10(d). The OIG has not found and does not now find that your written submissions raise a genuine issue of material fact. Accordingly, no further proceedings are required by the regulation.

Given the absence of a genuine issue of material fact in your submissions, the OIG is called upon to make a debarment decision on the basis of the facts in the administrative record. In so doing, it applies the following standards to guide its decision:

- (1) Pursuant to 45 C.F.R. 45 § 1641.7(a) an IPA may be debarred when it is found to have “failed significantly to comply with government auditing standards ..., generally accepted auditing standards and/or OIG audit guidance as stated in the OIG Audit Guide for Recipients and Auditors, including the Compliance Supplement for Audits of LSC Recipients”
- (2) Generally Accepted Government Auditing Standards (GAGAS) 2.08(c), 4.01 and 4.03, which incorporate by reference the American Institute of Certified Public Accountants’ (AICPA) Statements on Auditing Standards (SAS).
- (3) Among the requirements contained in the SAS No. 95, AU Section 150.02 requires auditors to obtain “sufficient appropriate audit evidence by performing audit procedures to afford a reasonable basis for an opinion regarding the financial statements under audit ...”;
- (4) More specifically, SAS No. 103, AU Section 339.10 requires auditors to obtain and prepare “audit documentation the enables an experienced auditor, having no previous connection to the audit, to understand:
 - (5) (a) The nature, timing, and extent of auditing procedures performed . . . ;
 - (6) (b) The results of the audit procedures performed and the audit evidence obtained;
 - (7) (c) The conclusions reached on significant matters; and
 - (8) (d) That the accounting records agree or reconcile with the audited financial statements or other audited information.”
- (9) Finally, the OIG’s Compliance Supplement instructs IPAs to conduct testing that would accomplish the objective of providing “reasonable assurance [that the] ... LSC recipient complied with the LSC Act, regulations, and other applicable law.” LSC OIG, *Compliance Supplement for Audits of LSC Recipients*, Part C at 8. The *Compliance Supplement* contains suggested testing procedures but allows IPAs the option of using adequate “alternative procedures used to accomplish the objective” of the compliance portion of the audit. *Compliance Supplement*, Introduction at 2.

Analysis and Decision

Having reviewed your submissions as well as the McBride Report, I have decided by a preponderance of the evidence that you and the firm Bobbie L. Howard, CPA failed significantly

to comply with the above described government auditing standards, generally accepted auditing standards, and OIG guidance in performance of your FY2013 audit of Acadiana.

In brief, you failed to collect and maintain “sufficient appropriate audit evidence by performing audit procedures to afford a reasonable basis for an opinion regarding the financial statements under audit,” as required by GAGAS 2.08(c), 4.01 and 4.03, which incorporate by reference SAS No. 95, AU Section 150.02. In addition, you failed to obtain and prepare, as required by SAS No. 103, AU Section 339.10 (also incorporated by reference into GAGAS 2.08(c), 4.01 and 4.03), “audit documentation the enables an experienced auditor, having no previous connection to the audit, to understand:

- (a) The nature, timing, and extent of auditing procedures performed . . . ;
- (b) The results of the audit procedures performed and the audit evidence obtained;
- (c) The conclusions reached on significant matters; and
- (d) That the accounting records agree or reconcile with the audited financial statements or other audited information.”

See McBride Report at 2.

In addition, McBride found there is insufficient evidential matter to support the conclusions expressed in your audit report regarding Acadiana’s compliance with the regulations contained in 45 C.F.R. §§ 1608, 1609, 1610, 1611, 1612, 1613, 1615, 1617, 1620, 1626, 1627, 1630, 1632, 1633, 1635, 1636, 1637, 1638, 1639, 1643, and 1644. See McBride Report at 2-3, 4-5.

Finally, the McBride Report found that there is no indication you tested the allocation system or verified that the system results in the allocation of only allowable costs to LSC; the Schedule of Federal Awards (SEFA) you presented in your report mentions only the recipient’s LSC basic field grant, and is defective in a number of other respects (as detailed above); and you failed to analyze the recipient’s property management system to ensure that it meet LSC requirements. See McBride Report at 3-4.

McBride has extensive experience performing audits to nonprofit organizations, performing QCRs, and providing audit services to government agencies. McBride has performed dozens of QCRs on behalf of the LSC OIG alone. There is no reasonable basis for doubting that McBride qualifies as an experienced auditor within the meaning of applicable audit standards. Its assessment of your audit documentation is, therefore, highly probative of whether that documentation satisfies the above described standards.

Internal OIG audit staff also reviewed the documentation you submitted and concluded that it does not satisfy applicable audit standards.

Moreover, there is nothing in the documentation you submitted in response to the OIG’s September 25, 2014 Notice of Debarment that throws these independently-reached determinations into doubt. Although you vow to ensure future audits are conducted in

conformity with applicable standards, such assurances have no bearing on my legal determination of whether debarment is warranted by the facts established in this proceeding.

Accordingly, having found by a preponderance of the evidence that that you and the firm Bobbie L. Howard, CPA failed significantly to comply with applicable standards and guidance in performance of the FY 2013 audit of Acadiana, I have decided that debarment is warranted. Accordingly, pursuant to 45 C.F.R. §§ 1641.7 & 1641.22, you and the firm of Bobbie L. Howard, CPA are hereby debarred from providing audit services to LSC grantees for a period of three years beginning December [insert new date], 2014.

Effect of Debarment

Pursuant to 45 C.F.R. Part 1641, LSC grantees are prohibited from using the audit services of the debarred IPA, whether the IPA provides those services directly or as an agent of a third party, throughout the entire period of the debarment. *See* 45 C.F.R. § 1641.5(a) & (b). In particular, LSC's grantees may not "knowingly award contracts to, extend or modify existing contracts with, or solicit proposals from" debarred IPAs, and debarred IPAs are prohibited from soliciting or entering into any new contract for audit services with [a grantee] for the duration of the debarment." *Id.* Please note that "[d]ebarred IPAs also are prohibited from providing audit services to [LSC grantees] as agents or representatives of other IPAs."

Certain other provisions of LSC's debarment regulation apply to limited debarments, but in the present matter, the debarment is not so limited. Rather, the debarment at issue in the present matter precludes you and the firm of Bobbie L. Howard, CPA from providing audit services to any LSC grantee. I have therefore omitted discussion of provisions that apply only to limited debarments.

Public Record

Please be aware that a copy of this decision will be a public document and the fact of debarment will be a matter of public record. At a minimum, the OIG will inform the affected grantee of the results of this debarment proceeding.

Right to Appeal

Pursuant to 45 C.F.R. § 1641.24(a) & (b), you have a right to appeal this debarment decision provided you do so within 30 days. Should you opt to avail yourself of this appeal right, please follow the procedural requirements set forth in those subsections. You may also opt to submit a request for reconsideration pursuant to 45 C.F.R. § 1641.24(c). Please be aware that in most instances a request for reconsideration may not be made until 60 days after the debarring official's decision. 45 C.F.R. § 1641.24(c)(4). Again, should you opt to file such a request, please follow the procedural requirements set forth in 45 C.F.R. § 1641.24(c). I have previously

provided you with a complete copy of LSC's debarment rule, and you may wish to consult that document if you are contemplating an appeal or request for reconsideration.

Without prejudice to your right to appeal or request reconsideration, the debarment decision set out herein is effective immediately.

Sincerely,

Laurie Tarantowicz
Assistant Inspector General
and Legal Counsel

cc: Joseph L. Oelkers, III, Executive Director
Acadiana Legal Services Corporation